IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.12.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.3497 of 2023
and C.M.P.Nos.28570 & 28573 of 2023

Trans Car India Private Limited
represented by its General Manager (Legal Affairs)
Mr.Vijaya Raghavan
"Buhari Buildings", No.5,
Moores Road, Chennai – 600 006 .. Appellant

Vs.

1.Additional Commissioner
GST – Chennai South Commissionerate
Office of the Commissioner of GST &
Central Excise, M.H.U. Complex
692, Anna Salai, Nandanam
Chennai – 600 035

2.Additional Directorate
DGGI, Chennai Zonal Unit
5th Floor, Tower – II, BSNL Building
No.16, Greams Road, Chennai – 600 006 .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.09.2023 passed in W.P.No.27678 of 2023 on the file of this Court.

For Appellant : Mr.T.V.Lakshmanan

JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed against the order passed by the learned Judge in W.P.No. 27678 of 2023 on 22.09.2023.

2.The appellant herein is the petitioner in the aforesaid writ petition. According to them, the first respondent passed the Order-in-Original No.25 of 2023 (DGGI) dated 31.05.2023 without considering the submissions raised by the appellant, after having virtual hearing. The first respondent acted arbitrarily and passed the said order dated 31.05.2023 imposing penalty and interest under the provisions of Central Goods and Services Tax (CGST) Act, 2017, State Goods and Services Tax (SGST) Act, 2017 and Integrated Goods and Services Tax (IGST) Act, 2017, without any jurisdiction. Challenging the same, the appellant filed a writ petition in

W.P.No.27678 of 2016. By order dated 22.09.2023, the learned Judge disposed of the said writ petition, with the following observations and directions:

> *"4.Therefore, Court is inclined to dispose this writ petition by giving liberty to the petitioner to challenge the impugned Order-in-Original No.25/2023 (DGGI) dated 31.05.2023 passed by the first respondent, within a period of thirty days from the date of receipt of a copy of this order. The petitioner shall deposit 10% of Rs.14,88,370/- towards pre-deposit along with the proposed appeal.*
>
> *5.This writ petition stands disposed of with the above liberty...."*

Aggrieved by the aforesaid order of the learned Judge, the present appeal has been preferred by the appellant herein.

3.Today, when the matter was taken up for consideration, the learned counsel for the appellant, after arguing some time, submitted that it would suffice, if the time limit granted by the learned Judge to file an appeal before the first respondent and pre-deposit of 10% of Rs.14,88,370/- along with the appeal, is extended by this court.

4.In view of the above, the time limit fixed by the learned Judge for filing appeal with required pre-deposit, is extended by further period of eight weeks, which will take effect from today. Accordingly, the appellant shall file an appeal before the first respondent along with pre-deposit of 10% of Rs.14,88,370/-, as directed by the learned Judge in the impugned order passed in the writ petition, within the time extended today. On filing of such appeal, the first respondent shall consider the same, without raising any issue relating to limitation, if any and pass appropriate order, on merits and in accordance with law, after affording an opportunity of hearing to the appellant, as expeditiously as possible.

5.With the aforesaid directions, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed. The Registry is directed to return the original copy of the Order-in-Original No.25 of 2023 (DGGI) dated 31.05.2023, if any, to the appellant, after substituting a copy of the same.

[R.M.D., J.] [M.S.Q., J.]
19.12.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To

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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

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